IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

WP(C).No. 30078 of 2007(E)

PETITIONER:

SUDHAKARAN, AGED 50, S/O.KUTTAN,
KODIYATTIL HOUSE,OLLUKARA DESOM, THRISSUR.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

SUBERBAN CHIT FUNDS (P) LTD,
THRISSUR.

BY ADV. SRI.R.S.KALKURA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/11/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 30078/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE EXECUTION PETITION NO. 532/03 IN OS NO. 857/96 DT. 21/5/03 ON THE FILE OF THE MUNSIFF COURT, THRISSUR.

EXT.P2. COPY OF THE OBJECTION FILED BY THE PETITIONER DT. 27/08/03.

EXT.P3. COPY OF THE OBJECTIONS FILED BY THE PETITIONER HEREIN EXT.P1 DATED 13/1/2005.

EXT.P4. COPY OF THE SALE PROCLAMATION ISSUED BY THE COURT BELOW IN EXT.P1 DT. 12/09/2007.

RESPONDENT'S EXHIBITS **NIL.**

True copy

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M.N. KRISHNAN, J.

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W.P.C. NO. 30078 OF 2007

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Dated this the 13th day of November, 2007.

J U D G M E N T

This writ petition is preferred against the order of the Court below thereby it directed the sale of the property in public auction in execution of a decree. The main grievance of the writ petitioner is to the effect that he is having less than 3 cents of land and he is a labourer and therefore attachment and sale of the property cannot be done in view of the exemption under Section 60(1)(c) of the CPC. It appears that the Court below has not bestowed its attention to the said contention to find out whether such an exemption is available to the writ petitioner. Ext.P2 is the counter filed which clearly indicates the bone of contention. Therefore, the order passed by the executing Court without considering the objection is not legally correct and therefore it requires interference. Therefore, the order directing the sale of property is set aside and the matter is remitted back to the

executing Court for consideration of the point whether the writ petitioner is entitled to the exemption claimed by him under Section 60(1)(c) of the CPC. It shall be done after hearing both sides and further directions can be had thereafter. Both parties are directed to appear before the Court below on 14.12.07 and the matter be disposed of within a time frame of two months from the date of first appearance of parties before the Court below.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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